

FILED

OCT - 4 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTER DIVISION

RICHARD DISHMAN,

Plaintiff,

v.

THOMAS CLEARY, KEITH DEITELHOFF,
PATRICK O'KELLY, DAVID DIMOFF,
MARK CAMPBELL, ANDREW OHLSON,
CHRISTOPHER BROWN, MICHAEL BROWN,
MORRIS BROWN, WALTER BROWN,
EDDIE HAYNIE and other
UNIDENTIFIED Chicago Police Officers,
Defendants.

07CV5626

JUDGE MAROVICH
MAG. JUDGE DENLOW

COMPLAINT

NOW COMES the Plaintiff, RICHARD DISHMAN, by and through his attorney in this regard, GIGI GILBERT, and complaining of Defendants, THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN and other unidentified Chicago officers, and states as follows:

NATURE OF THE CASE

1. This suit arises from the violation of civil rights of Plaintiff, RICHARD DISHMAN, for arrest without probable cause, and use of excessive force in violation of Title 42 U.S.C. section 1983 and pendent state law claim for malicious prosecution.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. section 1983. Jurisdiction is based upon 28 U.S.C. section 1331, 1332 and 1367. This court has pendent jurisdiction over the state law claim for malicious prosecution. Plaintiff demands trial by jury.

VENUE

3. The violation of civil rights alleged herein were committed within the Northern District of Illinois to wit: the City of Chicago, County of Cook, State of Illinois. This action properly lies in the United States District Court, Northern District of Illinois, Eastern Division.

PARTIES

4. Plaintiff, RICHARD DISHMAN (" DISHMAN"), is a resident of the City of Chicago, County of Cook, State of Illinois.

5. Defendants, THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN and other UNIDENTIFIED POLICE OFFICERS were at all times relevant hereto, employed as police officers by the Chicago Police Department and acting under color of state law.

COUNT I -VIOLATION OF CIVIL RIGHTS ARREST WITHOUT PROBABLE CAUSE

6. On or about October 12, 2005, Plaintiff, DISHMAN, was arrested without a warrant and without probable cause by Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN and other UNIDENTIFIED Chicago police officers.

7. The conduct of Plaintiff, DISHMAN, prior to his arrest could not be reasonably interpreted by the Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS as constituting probable cause that DISHMAN had committed, was committing, or was about to commit a crime.

8. The facts and circumstances within Defendant THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS 'S knowledge would not lead reasonable police officers to believe that DISHMAN had committed, was committing or was about to commit a crime.

9. Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS were acting under

color of state law as members of the Chicago Police Department at all relevant times herein.

10. Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS intentionally violated DISHMAN's federally protected constitutional right not to be arrested or seized without probable cause in violation of the Fourth Amendment to the Constitution of the United States.

11. Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS 's acts were done with malice and/or reckless indifference to DISHMAN's federally protected rights.

12. As a direct and proximate result of Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS' actions, DISHMAN, suffered and continues to suffer mental anguish, psychological and emotional distress, pain and suffering, economic losses, some or all of which may be permanent.

13. As a direct and proximate result of Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL,

ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS ' actions DISHMAN was deprived of rights, privileges and immunities under the Fourth Amendment to the United States Constitution and the laws of the State of Illinois.

WHEREFORE, Plaintiff, RICHARD DISHMAN, prays that this Honorable Court enter a judgment in his favor and against Defendants, THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN and other unidentified Chicago police officers for the following relief:

- (a) Compensatory damages in an amount to be determined at trial;
- (b) Punitive damages in the amount to be determined at trial;
- (c) Reasonable attorneys fees and costs; and
- (d) Such other and further relief as this court deems reasonable.

COUNT II - EXCESSIVE FORCE IN ARREST

1-13. DISHMAN alleges the allegations contained in paragraphs 1-13 above as if fully set forth as paragraphs 1-13 herein.

14. Under the totality of circumstances at the time of arrest, and while DISHMAN was in custody, Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED

OFFICERS used greater force than was reasonably necessary to make the arrest of DISHMAN and while detaining him, including but not limited to shooting him with a Taser gun, beating him with a baseball bat and punching him after putting on leather gloves.

15. As a direct and proximate result of Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS' actions, DISHMAN suffers and continues to suffer physical pain requiring medical care, and suffered physical and emotional pain and mental anguish some or all of which may be permanent.

16. Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS acted under color of state law, and intentionally used excessive force and/or unreasonable force in effecting DISHMAN's arrest, in violation of his Fourth Amendment rights under the United States Constitution to be free from excessive force in violation of 42 U.S.C. section 1983.

17. Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN AND OTHER UNIDENTIFIED OFFICERS' use of excessive

force and/or unreasonable force in effecting DISHMAN'S arrest and while he was in custody, was done with malice and/or reckless indifference to DISHMAN'S federally protected rights.

WHEREFORE, Plaintiff, RICHARD DISHMAN, prays that this Honorable Court enter a judgment in his favor and against Defendants, THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN and other unidentified Chicago police officers for the following relief:

- (a) Compensatory damages in an amount to be determined at trial;
- (b) Punitive damages in the amount to be determined at trial;
- (c) Reasonable attorneys fees and costs; and
- (d) Such other and further relief as this court deems reasonable.

COUNT III - STATE MALICIOUS PROSECUTION

18. DISHMAN alleges the allegations contained in paragraphs 1-17 above as if fully set forth as paragraphs 1-17 herein.

19. Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN and other UNIDENTIFIED POLICE OFFICERS, commenced criminal proceedings against DISHMAN by charging him in the Circuit Court of Cook County with inter ali, Battery to a Police Officer, Driving While under the influence of alcohol, and other traffic citations.

20. The charges brought against DISHMAN were terminated in his favor.

21. Defendants did not have probable cause to commence criminal proceedings against plaintiff DISHMAN.

22. Defendants THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN and other UNIDENTIFIED POLICE OFFICERS acted with malice and/or reckless indifference when the Defendants initiated criminal proceedings against DISHMAN.

23. As a direct and proximate result of Defendants' actions, DISHMAN, suffered and continues to suffer mental anguish, psychological and emotional distress, pain and suffering, economic losses, some or all of which may be permanent.

WHEREFORE, Plaintiff, RICHARD DISHMAN, prays that this Honorable Court enter a judgment in his favor and against Defendants, THOMAS CLEARY, KEITH DEITELHOFF, PATRICK O'KELLY, DAVID DIMOFF, MARK CAMPBELL, ANDREW OHLSON, EDDIE HAYNIE, CHRISTOPHER BROWN, MICHAEL BROWN, MORRIS BROWN, WATER BROWN and other UNIDENTIFIED CHICAGO POLICE OFFICERS for the following relief:

- (a) Compensatory damages in an amount to be determined at trial;
- (b) Punitive damages in the amount to be determined at trial;
- (c) Reasonable attorneys fees and costs; and

(d) Such other and further relief as this court deems reasonable.

Respectively Submitted,

By: 

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